



New Regulation 704 KAR 7:170 Corporal Punishment

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E D U C A T I O N

Background

Statutory Background

- KRS 503.110 (1982) permits the use of corporal punishment by teachers for the purpose of maintaining classroom discipline.
- KRS 158.4416 (2019) requires KDE to provide resources related to trauma-informed discipline and requires districts to adopt trauma-informed discipline policies.
- KRS 158.444 requires KBE to promulgate regulations related to student discipline.
- KRS 156.160(1)(h) requires KBE to promulgate regulations related to student welfare.

Corporal Punishment is not a Trauma Informed Discipline Resolution

- The American Academy of Child and Adolescent Psychiatry suggests that corporal punishment at school may be harmful to students and may:
 - Increase problematic behaviors,
 - Create an inability to self-regulate, and
 - Make it difficult to develop trusting and secure relationships with adults.
- Other national advocacy organizations that have taken a similar stance include:
 - The American Academy of Pediatrics,
 - The National Congress of Parents and Teachers,
 - The American Medical Association
 - The National Education Association, and
 - The American Bar Association.

A Harm Reduction Approach

- As corporal punishment cannot be viewed through a trauma-informed lens, KDE applied a harm reduction approach to the issue.
- Harm reduction is a policy framework usually applied to substance use policy.
- The framework includes relevant principles:
 - Accepts that the action will occur and seeks to minimize harmful effects.
 - Acknowledges that some forms of use are safer than others.
 - Ensures that those involved have a voice and agency in the situation.
 - Does not seek to minimize the real harm and danger associated with the activity.

The Current State of Corporal Punishment in Kentucky

Total Corporal Punishment Resolutions by School Year

	2016-17	2017-18	2018-19	2019-20*	2020-21*	2021-22+
Count	317	432	215	96	7	13
Pct. of Total	0.11%	0.14%	0.09%	0.06%	0.02%	0.02%

Source: Kentucky School Report Card and Infinite Campus records.

*This school year was impacted by the COVID-19 pandemic.

+ As of Nov. 12, 2021

Local Corporal Punishment Policies

Prohibiting the Use of Corporal Punishment	Permissive Corporal Punishment Policies	No Clear Corporal Punishment Policy
156	4	11

Source: District Policy Manuals

The Regulation

Section One

Definitions. (1) "Corporal punishment" means the deliberate infliction of physical pain by any means upon the whole or any part of a student's body as a penalty or punishment for student misbehavior;

(2) "Qualified mental health professional" means the same as defined in KRS 202A.011(12);

(3) "Dangerous instrument" means the same as defined in KRS 500.080;

(4) "Deadly weapon" means the same as defined in KRS 500.080;

(5) "Physical injury" means the same as defined in KRS 500.080; and

(6) "Serious physical injury" means the same as defined in KRS 500.080.

Section Two

No student with an Individual Education Program (IEP) pursuant to 707 KAR Chapter 1, 504 plan pursuant to Section 504 of the Rehabilitation Act of 1973, or identified as a homeless or foster care youth pursuant to 704 KAR 7:090 shall be subjected to corporal punishment.

Section Three

(1) Within the first five (5) days of enrollment each school year, the school shall request written consent from the legal guardian of each student to use corporal punishment as a behavior intervention for their child. The written consent shall inform the legal guardian of how to access the student code of conduct, describe the code of conduct violations that may result in corporal punishment, and notify the legal guardian that consent may be withdrawn at any point during the school year. Absent valid written consent signed by the legal guardian corporal punishment shall not be administered.

(2) Before administering corporal punishment to a pupil, the school shall contact the child's legal guardian to provide prior notification and receive affirmative verbal consent.

Section Four

Notwithstanding the provisions of KRS 503.070 and KRS 503.050, prior to administering corporal punishment to a pupil, the school shall attempt to remedy problematic behavior through other non-physical means.

Section Five

(1) Corporal punishment may only be administered by the Principal or Assistant Principal. Corporal punishment shall only be administered in the presence of at least one additional certified staff member who is the same gender as the student.

(2) No staff member shall be compelled to administer or witness corporal punishment.

Section Six

(1) After administering corporal punishment, the school shall ensure that the student receives a minimum of thirty (30) minutes of counseling provided by the school's guidance counselor, school social worker, school psychologist, or other qualified mental health professional no later than the end of the next school day.

(2) Each incidence of corporal punishment must be recorded in the student information system. Schools shall report:

- (a) The time and date which the punishment was administered;
- (b) The name and position of the individual who administered the punishment;
- (c) The names and positions of any witnesses to the punishment;
- (d) The time and date of the prior consent required under Section 3;
- (e) The name and relationship of the individual providing consent under Section 3;
- (f) The behavioral interventions deployed prior to corporal punishment as required under Section 4; and
- (g) The time and date of the student counseling appointment required under Section 5.

Section Seven

- (1) Each local board of education shall adopt a policy that either:
 - (a) Prohibits the use of corporal punishment in the district; or
 - (b) Allows the use of corporal punishment in the district.
- (2) If the local board of education adopts a policy allowing the use of corporal punishment, its policy shall:
 - (a) Define the circumstances under which corporal punishment may be deployed which shall not exceed the justification included in KRS 503.110;
 - (b) Define the procedures for deploying such punishment;
 - (c) Define the tool or instrument to be used when administering corporal punishment and include a prohibition on the use of dangerous instruments or deadly weapons;
 - (d) Define the limits on corporal punishment and ensures that corporal punishment does not result in physical injury or serious physical injury; and
 - (e) Define the procedures for documenting and reporting such punishment.

Questions